

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FORREST GRAY,

Plaintiff,

v.

DANIEL CASSIE,

Defendant.

Case No. 2:22-cv-00099-JDP (PC)

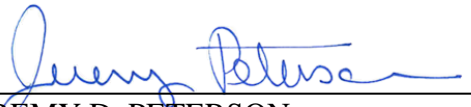
ORDER GRANTING PLAINTIFF'S  
MOTION TO DISMISS HIS SECOND  
AMENDED COMPLAINT AND FINDING  
THAT THE FIRST AMENDED  
COMPLAINT STATES A COGNIZABLE  
EIGHTH AMENDMENT CLAIM  
AGAINST DEFENDANT CASSIE

ECF Nos. 13 & 34

On August 3, 2022, I found service appropriate for defendant Cassie based on plaintiff's allegations of sexual assault in his first amended complaint. ECF No. 15. After I directed service, plaintiff filed a second amended complaint, ECF No. 28, which I found did not state viable claims, ECF No. 33. I grant plaintiff thirty days to either file an amended complaint or advisement that he wished to stand by his complaint, subject to dismissal. ECF No. 33. Plaintiff instead filed a request to dismiss his second amended complaint and to proceed on his first amended complaint. ECF No. 34. That request is granted, and defendant is directed to respond to plaintiff's first amended complaint within the time provided for by the federal rules of civil procedure.

IT IS SO ORDERED.

Dated: March 7, 2023

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE